

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re)
)
GERARD A. TURRO) MM Docket No. 97-122
)
)
For Renewal of License) File Nos. BRFT-970129YC
for FM Translator Stations) BRFT-970129YD
W276AQ(FM), Fort Lee, NJ, and)
W232AL(FM), Pomona, NY)
)
MONTICELLO MOUNTAINTOP)
BROADCASTING, INC.)
)
Order to Show Cause Why the Construction)
Permit for FM Radio Station WJUX(FM),)
Monticello, NY, Should Not Be Revoked)

To: The Commission

MASS MEDIA BUREAU'S
OPPOSITION TO RENEWED PETITION FOR EXTRAORDINARY RELIEF
AND ISSUANCE OF AN ORDER REQUIRING GERARD A. TURRO
TO COME INTO IMMEDIATE COMPLIANCE WITH 47 C.F.R. §74.1232

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October 26, 1999

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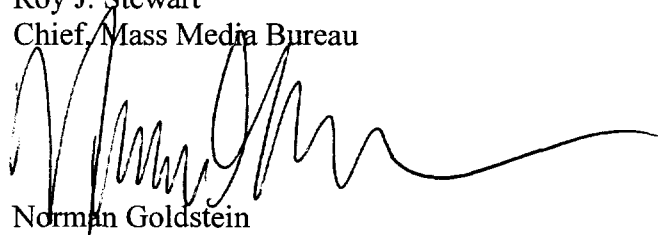
1. On October 20, 1999, Universal Broadcasting of New York, Inc. ("Universal") filed a pleading styled "Renewed Petition For Extraordinary Relief And Issuance Of An Order Requiring Gerard A. Turro To Come Into Immediate Compliance With §74.1232." The Mass Media Bureau, by its attorneys and pursuant to Section 1.294 of the Commission's Rules, submits its opposition to Universal's petition.

2. Universal alleges that Gerard A. Turro ("Turro") is currently operating his translator stations in violation of Section 74.1232(d) of the Commission's Rules and has been so operating them in violation of that rule for five years. Universal wants the violations to cease. Accordingly, Universal seeks issuance of a Commission ruling in this proceeding, which orders Turro to cease violating Section 74.1232(d) of the Commission's Rules. That provision, *inter alia*, prohibits the licensee of a translator station, such as Turro, from having "any connection with a primary FM station." In this regard, Universal observes that the Commission has already determined that Turro's relationship with Monticello Mountaintop Broadcasting, Inc. ("MMBI"), licensee of Station WJUX(FM), Monticello, New York -- as set forth in their "Network Affiliation Agreement -- is prohibited under Section 74.1232(d) of the rules. See Gerard A. Turro, 12 FCC Rcd 6264, 6269-70, n. 13 (1997) ("HDO"). Universal contends that the Commission said nothing in the HDO that could possibly authorize Turro to continue his illegal translator operations during the entire course of the hearing.

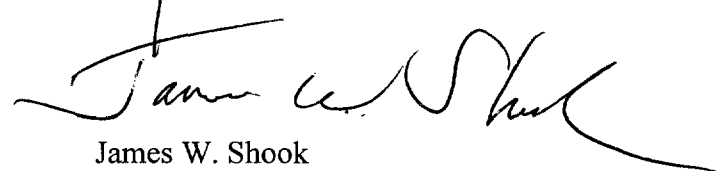
3. In the same HDO footnote cited by Universal, the Commission noted that the Bureau issued a letter to Turro in 1991, which he “may have construed to authorize his relationship with WJUX and MMBI.” *Id.* Accordingly, the Commission stated that it “will not pursue in this proceeding any violation of Section 74.1232(d) that may have resulted from Turro’s reliance on the 1991 letter.” *Id.* It thus appears that while the Commission concluded that Turro had been violating Section 74.1232(d), the Commission also concluded that it would not address the effect of such violations in the instant proceeding. In other words, questions concerning Section 74.1232(d) would have to be addressed in a different proceeding. Presumably, such a proceeding would originate with a notice of apparent liability pursuant to Section 1.80 of the rules or in connection with a cease and desist proceeding pursuant to Section 1.91 of the rules.

4. Accordingly, the Bureau opposes Universal's petition to the extent it seeks issuance of an order in this proceeding, which is at odds with the HDO.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Norman Goldstein
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CERTIFICATE OF SERVICE

Karen Richardson, secretary of the Enforcement Division, Mass Media Bureau, certifies that she has on this 26th day of October, 1999, sent by regular U.S. mail copies of the foregoing "Mass Media Bureau's Opposition To Renewed Petition For Extraordinary Relief And Issuance Of An Order Requiring Gerard A. Turro To Come Into Immediate Compliance With §74.1232" to:

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